



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**SEP - 9 2015**

Brandon Shackelford  
P.O. Box 3214  
Oregon City, OR 97045

RE: MUR 6808

Dear Mr. Shackelford:

The Federal Election Commission ("Commission") reviewed the allegations in your complaint received on April 21, 2014. On September 3, 2015, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to dismiss the allegations that Tootie Smith for Oregon and Carol A. Russell, in her official capacity as treasurer, violated 52 U.S.C. §§ 30118 and 30120, and close its file in this matter. Accordingly, the Commission closed its file in this matter on September 3, 2015.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which more fully explains the Commission's finding, is enclosed.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Daniel A. Petalas  
Acting General Counsel

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

Enclosure  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

4 **RESPONDENTS:** Tootie Smith for Oregon MUR 6808  
5 Carol A. Russell in her official capacity as treasurer  
6

7 **I. INTRODUCTION**

8 This matter was generated by a complaint filed with the Federal Election Commission  
9 (the "Commission") by Brandon Shackelford ("Shackelford") on April 21, 2014, alleging  
10 violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and  
11 Commission regulations by Tootie Smith for Oregon and Carol A. Russell in her official  
12 capacity as treasurer. For the reasons set forth below, the Commission has chosen to dismiss the  
13 allegations that Tootie Smith for Oregon and Carol A. Russell in her official capacity as treasurer  
14 violated 52 U.S.C. §§ 30118 and 30120 as a matter of prosecutorial discretion.

15 **II. FACTUAL AND LEGAL ANALYSIS**

16 **A. Factual Background**

17 Complainant alleges that the Committee accepted a corporate contribution in the amount  
18 of \$1,000 from Mountain West Investment Corporation ("Mountain West") on January 26, 2014.  
19 Compl. at 1. The Complainant notes that the contribution was disclosed on page 7 of the  
20 Committee's 2014 April Quarterly Report, filed on April 15, 2014. *Id.*

21 The Complainant also asserts that the Committee violated the Act's disclaimer provisions  
22 by distributing yard signs and banners advocating Smith's candidacy without including a "paid  
23 for" disclaimer. *Id.* at 3. Attached to the Complaint are two low-definition photographs. *Id.* at  
24 5. The first shows a yard sign bearing the slogan "Tootie for Oregon," while the second shows a  
25 banner with the same inscription, as well as directing the viewer to "www.TootieSmith.com."  
26 *Id.* In neither case is there a visible disclaimer present. *See id.*

1 The Committee acknowledges that it accepted a prohibited corporate contribution and  
2 failed to display a proper disclaimer. *See Resp.* at 1. The Committee explains that it realized its  
3 error in accepting the corporate contribution the day after the 2014 April Quarterly Report was  
4 filed and subsequently returned the contribution. *See Committee's* 2014 Amended Pre-Primary  
5 Report, filed on May 8, 2014, at 11 (disclosing \$1,000 refund to Mountain West for "corporate  
6 contribution").<sup>1</sup> Additionally, the Committee indicates it ordered and then attached tape strips  
7 bearing "Paid for by TOOTIE SMITH FOR OREGON Committee" to the signs and banners at  
8 issue. *See Resp.* at 1.

9 **B. Legal Analysis**

10 Under the Act, a public communication is "a communication by means of any broadcast,  
11 cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass  
12 mailing, or telephone bank to the general public, or any other form of general public political  
13 advertising." 52 U.S.C. § 30101(22); *see also* 11 C.F.R. § 100.26. Public communications "if  
14 paid for and authorized by a candidate, an authorized political committee of a candidate, or its  
15 agents" are required to state the communication was paid for by the candidate, committee, or  
16 agent in question. 52 U.S.C. § 30120(a)(1); *see also* 11 C.F.R. § 110.11(a)(1). In this case, the  
17 Committee admits to violating the provisions of the Act by failing to include the requisite  
18 disclaimer on a set of public communications.

19 Federal campaign committees and candidates for federal office are forbidden from  
20 knowingly accepting or receiving corporate contributions. 52 U.S.C. § 30118(a); *see also* 11  
21 C.F.R. § 114.2. Such contributions include "direct or indirect payment, distribution, loan,

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<sup>1</sup> The Response includes an image of a check from the Committee's account, made out to "Mountain West Investment Corporation" in the amount of \$1,000, dated April 16, 2014. *See Resp.* at 2. The Response also includes an apparent copy of a letter from Ms. Smith, declining the alleged contribution, addressed to Jason Tokarski at the same address attributed to Mountain West in the Committee's FEC filings. *See Resp.* at 3.

1 advance, deposit, or gift of money, or any services....” 52 U.S.C. § 30118(b)(2); *see also* 11  
2 C.F.R. § 114.1(a)(1).

3 The Committee states that it took prompt remedial action to remedy both alleged  
4 violations by returning the check and adding proper disclaimers to its signs and banners.

5 Accordingly, in view of the prompt remedial action taken by Respondents, the  
6 Commission has chosen to exercise its prosecutorial discretion, pursuant to *Heckler v. Chaney*,  
7 470 U.S. 821 (1985), to dismiss the allegations that Tootie Smith for Oregon and Carol A.  
8 Russell in her official capacity as treasurer violated 52 U.S.C. §§ 30118 and 30120.